

Assembly Bill No. 88

CHAPTER 77

An act to add Section 1670.6 to the Civil Code, relating to contracts.

[Approved by Governor July 21, 2003. Filed with
Secretary of State July 22, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 88, Corbett. Contracts: telemarketing.

The federal Telemarketing Sales Rule prohibits a seller or telemarketer, as defined, from engaging in deceptive or abusive telemarketing acts or practices, including, but not limited to, (1) causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer or donor, as specified, and (2) keeping, for 24 months, certain authorizations or records.

Existing state law provides that certain contracts are unlawful.

This bill would provide that any contract with a consumer located in California that is made in connection with a telephone solicitation for the purchase of certain goods or services is unlawful if the telemarketer fails to comply with the provisions of the Telemarketing Sales Rule described above, except as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1670.6 is added to the Civil Code, to read:

1670.6. A contract with a consumer located in California for the purchase of a good or service that is made in connection with a telephone solicitation made in or from outside of California and is primarily for personal, family, or household use, is unlawful if, with respect to that telephone solicitation, the telemarketer is in violation of Section 310.4(a)(6)(i) of, or has not complied with Section 310.5(a)(5) of, the Federal Trade Commission's Telemarketing Sales Rule (16 C.F.R. Part 310), as published in the Federal Register, Volume 68, Number 19, on January 29, 2003. This section shall apply only to those entities subject to, and does not apply to any transaction exempted under Section 310.6 of, the Telemarketing Sales Rule (16 C.F.R. Part 310), as published in the Federal Register, Volume 68, Number 19, on January 29, 2003.

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